

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

James Paul Aery,

Case No. 21-cv-2375 (KMM/DLM)

Plaintiff,

v.

ORDER

Nick Bender, Kyle Nohre, Patricia
Grimsley, and Beltrami County,

Defendants.

This matter is before the Court on Magistrate Judge Douglas L. Micko’s Report and Recommendation (“R&R”) dated January 30, 2024. [ECF No. 90]. Judge Micko recommended that the Motion for Summary Judgment [ECF No. 67] filed by Defendants Nick Bender, Kyle Nohre, Patricia Grimsley, and Beltrami County be granted, and that Plaintiff James Paul Aery’s claims against the Defendants be dismissed with prejudice. No objections have been filed to that R&R in the time period permitted.

Mr. Aery brought claims under 42 U.S.C. § 1983 against the Defendants in this matter based on a traffic stop that occurred on October 6, 2018, in Beltrami County, Minnesota. [Compl., ECF No. 33 at 4]. Judge Micko found that documentary evidence shows there are no genuine issues of material fact, and that Mr. Aery failed to establish any constitutional violations. Furthermore, because Mr. Aery failed to establish any constitutional violation, he cannot overcome a qualified immunity defense on summary judgment.

The district court reviews *de novo* those portions of the R&R to which an objection is made, and “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C); D. Minn. LR 72.2(b). In the absence of specific objections, the Court is not required to conduct a *de novo* review, and instead reviews the R&R for clear error. *Montgomery v. Compass Airlines, LLC*, 98 F. Supp. 3d 1012, 1017 (D. Minn. 2015); *accord Grinder v. Gammon*, 73 F.3d 793, 795 (8th Cir. 1996).

Having reviewed the R&R for clear error, the Court finds none. The Court agrees with Judge Micko’s conclusion that Mr. Aery has provided no evidence to support any of the claims alleged in this suit, and as such, summary judgment is appropriate here. And as stated in the R&R, because the evidence presented does not establish any violation, qualified immunity analysis is unnecessary here.

ORDER

Based upon the Report and Recommendation of the Magistrate Judge, and all the files, records and proceedings herein, **IT IS HEREBY ORDERED** that:

1. The Magistrate Judge’s Report and Recommendation [ECF No. 90] is **ADOPTED**;
2. Defendants’ Motion for Summary Judgment [ECF No. 67] is **GRANTED**; and
3. This action is **DISMISSED** with prejudice.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Date: March 11, 2024

s/Katherine Menendez

Katherine Menendez
United States District Court